

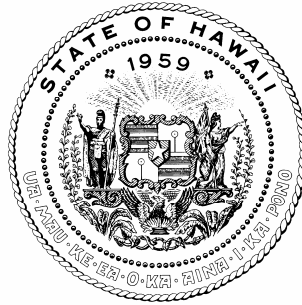
REPORT TO THE TWENTY-FORTH LEGISLATURE

REGULAR SESSION OF 2007

LAND CONSERVATION FUND

AND

LEGACY LAND CONSERVATION PROGRAM



Prepared by

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

In response to Section 173A-5, Hawaii Revised Statutes

Honolulu, Hawaii

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**PURPOSE**

Act 156, Session Laws of Hawaii (SLH) 2005, amended Section 173A-5, Hawaii Revised Statutes (HRS) by authorizing the transfer of 10% of all taxes imposed and collected under Section 247-1, HRS, to be credited to the Land Conservation Fund (LCF) and used to acquire lands having value as a resource to the State.

Act 254, SLH 2006, further amended Chapter 173A, HRS, by establishing a nine-member Legacy Land Conservation Commission (LLCC) to advise the Department of Land and Natural Resources (DLNR) and Board of Land and Natural Resources (BLNR) regarding requests for grants from LCF and proposals to use LCF for acquisitions of interests in land, and to recommend to BLNR acquisitions of interests or rights in certain lands having value as a resource to the State. Act 254, SLH 2006, also mandated that DLNR prepare and periodically revise a plan for the acquisition of land having value as a resource to the State.

Pursuant to Section 173A(5)(j)(2), HRS, this report includes:

- A summary of all interest or rights in land acquired during the preceding fiscal year;
- A summary of what value each newly acquired land has as a resource to the State;
- Proposals for future land acquisitions, including a summary of the resource value that the land may possess;
- A financial report for the preceding fiscal year; and
- Objectives and budget projections for the following fiscal year.

**INTEREST OR RIGHTS IN LAND ACQUIRED DURING THE PRECEDING FISCAL YEAR**

Pursuant to Act 156, SLH 2005, there was appropriated out of LCF the sum of \$1,100,000 to be used during Fiscal Year (FY) 2005-2006 for the purchase of agriculture

easements to protect farm and ranch lands throughout the State. The Act requires that this appropriation be used to preserve federal Farm and Ranch Land Protection Program (FRPP) funding for agricultural and cultural lands in Hawaii.

### **The Kainalu Ranch Conservation Easement**

On February 2, 2006, DLNR submitted a request to the Governor and the Director of Budget and Finance for the release of \$1,100,000 from LCF to the Maui Coastal Land Trust (MCLT) to be used, in conjunction with other funding secured by MCLT, to purchase a perpetual agricultural conservation easement on 167 acres of Kainalu Ranch in southeast Moloka'i ("the Kainalu Easement"). The initial estimated appraised value of the conservation easement is \$2,800,000; the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture (USDA) committed to provide \$1,400,000 through FRPP and the landowner offered to provide \$300,000 as a bargain sale reduction in price. MCLT will hold the conservation easement to the property, and the current landowner will retain fee title and continue management of the property, subject to MCLT monitoring the conditions of the conservation easement.

On April 13, 2006, DLNR submitted to BLNR a request for approval of the grant of \$1,100,000 to MCLT for the purchase of the Kainalu Easement. On June 26, 2006, MCLT and the State executed a Memorandum of Agreement (MOA), under which MCLT will provide a report to BLNR on the status of the conservation easement. FRPP determined, with DLNR concurring, that the initial appraisal of the conservation easement did not satisfy the newly updated federal appraisal requirements. A new appraisal was ordered with completion date expected to be late November, 2006. Pending the completion and acceptance by DLNR of this appraisal, the transaction will be finalized.

### **VALUE THAT EACH NEWLY ACQUIRED LAND HAS AS A RESOURCE TO THE STATE**

The definition of "land having value as a resource to the State," as amended by Act 156, SLH 2005, includes land having natural, environmental, recreational, scenic, cultural, agricultural production, or historic value, and may also include park and trail systems that provide access to any such land.

### **The Kainalu Conservation Easement**

The 167-acre section of Kainalu Ranch is located on the southeast coast of Moloka'i about 18 miles east of Kaunakakai. The land consists of two long parcels fronting the Kamehameha V Highway and rising to an elevation of approximately 1,450 feet. These parcels make up the ahupua'a known as Poniuohua I and II.

The conservation easement will protect the agricultural soils, agricultural viability and agricultural productivity of the parcels. The parcels contain "Prime and Priority Soils",

as designated by NRCS. Koa haole and pasture grasses cover the land, which is currently used for cattle grazing. The site is predominantly zoned Agriculture by the State, with the most makai (ocean-side) portion falling within the Conservation District. The parcel is zoned Agriculture as well by the County of Maui and designated Agriculture in the County's Community Plan.

Unique historical, cultural and natural sites are located in the lower elevations of the property. The greater Kainalu area has four ancient fishponds along its coast due to the numerous fresh water springs that line its seashore. At low tide, fresh water visibly bubbles up along the coast, especially in the Poniuohua area. These springs indicate a very desirable living area, which accounts for a number of building sites, midden deposits, artifacts and graves on the lower areas of the Poniuohua parcels. In the early 1900s, these springs watered cattle that were herded along the shore and out over the reef to waiting freighters that slung them up onto the ship. In addition to their cultural and historical values, the Poniuohua parcels also contribute to the recharge of the Waialua Aquifer due to the presence of its upland mesic forest, which feeds the lower elevation springs.

#### **PROPOSALS FOR FUTURE LAND ACQUISITIONS, INCLUDING A SUMMARY OF THE RESOURCE VALUE TO THE STATE**

The applications for the current 2006 Legacy Land Conservation Grant process, (available via the Legacy Land Conservation Program (LLCP) website, <http://www.hawaii.gov/dlnr/dofaw/llcp/>) were due October 16, 2006, at 4:30 p.m. Applicants requested a total amount of \$13,094,500 from LCF. The LLCP Coordinator has reviewed the applications for completeness and, pursuant to Act 254, SLH 2006, will deliver them to LLCC for consideration.

#### **FINANCIAL REPORT FOR THE PRECEDING FISCAL YEAR**

Revenues for LCF in 2006 were \$5,664,761.46. Pursuant to Act 156, SLH 2005, LCF was appropriated \$1,100,000 in FY 2006 (Appropriation Warrant No. 63). A purchase order for this amount to MCLT, was executed on June 26, 2006 (FY 2006).

#### **OBJECTIVES AND BUDGET PROJECTIONS FOR THE FOLLOWING FISCAL YEAR**

The approved administrative budget granted DLNR's request for a LCF spending cap of \$5.1 million, of which up to \$1,100,000 is to purchase perpetual agricultural conservation easements as selected by the NRCS/FRPP; up to 5% of revenues of LCF from the pervious year (approximately \$250,000) can be used by DLNR to administer the program; and the remaining balance (approximately \$3.75 million) is to be disbursed as monetary grants to be awarded to state agencies, county agencies, and nonprofit land

conservation organizations for the acquisition of interest or rights in lands having value as resource to the State.

DLNR has contracted with University of Hawaii's Office of Research Services for the short-term development and implementation of LLCP. This \$72,070 contract includes a LLCP coordinator position, which has been filled. The Legislature, through the Executive Budget (Act 160, SLH 2006), authorized the creation and funding of two temporary positions to implement the program. DLNR is presently establishing these positions and will fill them as they become available. DLNR has developed program materials, including an application form and instructions, a website, a database of contacts, and a program brochure. These materials, which have been reviewed by the Department of the Attorney General and the State Procurement Office, as well as reviewed and approved by BLNR., are being used currently to advertise and implement the application process.

LLCC is currently in the process of being selected. Following orientation, LLCC's first duty will be to conduct the recommendation process for the 2006 LLCP applications. The first step of this process is an initial review and ranking of applications followed by requests for additional information or site visits necessary to make a final decision. After a brief period of information gathering and assessment, the Commission will conduct a second review of the highest-ranked applicants. Following a consultation process conducted by DLNR with the President of the Senate and the Speaker of the House of Representatives, LLCC will make their final recommendations to BLNR.

The next duty of LLCC will be to establish the objectives and format of the Resource Land Acquisition Plan. Under Section 173A-6, HRS, DLNR must prepare a plan for the acquisition of land having value as a resource to the State to guide BLNR in LLCP land acquisition. This plan must consider related state and county agency plans. The initial step in the preparation of this plan is the compilation of related plans and use of departmental expertise to complete a first draft. The draft will be distributed to LLCC for review and comment on format, goals/objectives, and content, and subsequently submitted to the President of the Senate and the Speaker of the House of Representatives for concurrence, and approval by BLNR.

After the conclusion of the current project recommendation process and establishes a Resource Land Acquisition Plan, LLCC may choose to promulgate rules relating to the development of project selection criteria based on the project selection priorities listed under Section 173A-C, HRS. DLNR will also be requesting the expertise of LLCC as it refines and strengthens LLCP for the next annual application process.

### **CONCLUSION**

For detailed project plans and/or accomplishment reports on LLCP, please contact Molly Schmidt, Coordinator, Legacy Land Conservation Program, Department of Land and Natural Resources, Division of Forestry and Wildlife, 1151 Punchbowl Street, Room 224, Honolulu, HI, 96813, by telephone (586-0921), fax (586-0923), or email ([molly.e.schmidt@hawaii.gov](mailto:molly.e.schmidt@hawaii.gov)).